

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THE CITY OF NEW YORK,

Plaintiff,

- against -

NOT FOR PUBLICATION
ORDER
06-CV-03620 (CBA) (VMS)

MILHELM ATTEA & BROS., INC.,
DAY WHOLESALE, INC.,
GUTLOVE & SHIRVINT, INC.,
MAURO PENNISI, INC.,
JACOB KERN & SONS, INC.,
WINDWARD TOBACCO, INC., and
CAPITAL CANDY COMPANY, INC.,

Defendants.
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AMON, Chief United States District Judge.

The City of New York (“the City”) initiated this action against the above-captioned defendants—cigarette wholesalers who are state-licensed cigarette stamping agents—contending that the wholesalers violated the Contraband Cigarette Trafficking Act (“CCTA”), 18 U.S.C. § 2341 *et seq.* In its Memorandum & Order of August 17, 2012, the Court granted summary judgment to defendant Day Wholesale, Inc. (“Day”) on the grounds that the City had failed to put forth sufficient evidence that it suffered injury-in-fact from Day’s sales of unstamped cigarettes. (DE #391.) On September 28, 2012, Day requested, pursuant to Rules 54(b) and 58 of the Federal Rules of Civil Procedure, that the Court enter a final judgment of dismissal against the City in Day’s favor. (DE #396.) The City does not oppose this request. (DE #399.)

Rule 54(b) states, “[w]hen an action presents more than one claim for relief . . . or when multiple parties are involved, the court may direct entry of final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason

for delay” For the reasons already stated in the Court’s August 17, 2012 Memorandum & Order, there is no just reason to delay the entry of final judgment for Day.

The Clerk of Court is directed to enter judgment and dismiss the claims against defendant Day Wholesale, Inc.

SO ORDERED.

Dated: Brooklyn, New York
October 9, 2012

s/CBA¹¹

Carol Bagley Anton
Chief United States District Judge